

ASSEMBLY BILL

No. 1298

**Introduced by Assembly Members Coto and Arambula
(Principal coauthor: Assembly Member Swanson)**

February 27, 2009

An act to amend Sections 930, 977, 982, 1252, and 1279 of the Unemployment Insurance Code, relating to unemployment insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1298, as introduced, Coto. Unemployment Insurance Program.

(1) Existing law excludes from the definition of "wages," for purposes of the unemployment insurance law, remuneration in excess of \$7,000 paid to an individual by an employer during any calendar year, with respect to employment.

This bill would, for the calendar year beginning on January 1, 2009, revise this provision to exclude remuneration in excess of \$16,600 paid to an individual by an employer during that calendar year and would, for each calendar year thereafter, exclude remuneration paid to an individual by an employer during that calendar year in excess of the greater of \$16,600 or an amount equal to $\frac{1}{3}$ of the annualized state average weekly wage, as defined.

(2) Existing law requires every employer, with specified exceptions, to pay contributions to the Unemployment Fund at specified rates according to specified contribution rate schedules.

This bill would modify these provisions by increasing the contribution rates, as specified, pursuant to a new contribution rate schedule.

(3) Existing law provides that no employer or new employer, as defined, is eligible for a contribution rate of more or less than 3.4% for any rating period unless, among other things, his or her reserve account has been subject to benefit charges.

This bill would revise these provisions by increasing the contribution rate to 4.5%.

(4) Existing law provides that an individual is considered “unemployed” for the purpose of eligibility for unemployment compensation benefits if, for any week of less than full-time work, the wages payable to the individual for that week, when reduced by the greater of \$25 or 25% of the wages payable, do not equal or exceed the individual’s unemployment weekly benefit amount. Existing law provides for the payment of unemployment compensation to an individual in a weekly amount equal to his or her weekly benefit amount less the amount of wages in excess of the smaller of \$25 or 25% of the wages payable.

This bill would instead provide that an individual is unemployed in any week of less than full-time work only if the wages payable to him or her with respect to the week, when reduced by the greater of \$200 or 25% of wages payable, do not equal or exceed his or her weekly unemployment compensation benefit amount. This bill would also provide the payment of unemployment compensation to an individual in a weekly amount equal to his or her weekly benefit amount less the amount of wages in excess of the smaller of \$200 or 25% of wages payable for that week.

(5) Because this measure would increase the amount of unemployment compensation paid, it would make an additional amount payable from the Unemployment Fund, a continuously appropriated special fund, and thereby would make an appropriation.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 930 of the Unemployment Insurance
- 2 Code is amended to read:

930. (a) “Wages” does not include remuneration in excess of seven thousand dollars (\$7,000) paid to an individual by an employer during any calendar year, with respect to employment.

(b) For the calendar year beginning on January 1, 2009, “wages” does not include remuneration in excess of sixteen thousand six hundred dollars (\$16,600) paid to an individual by an employer during that calendar year, with respect to employment.

(c) (1) For each calendar year thereafter, “wages” does not include remuneration in excess of the greater of the following amounts paid to an individual by an employer during that calendar year, with respect to employment:

(A) Sixteen thousand six hundred dollars (\$16,600).

(B) An amount equal to one-third of the annualized state average weekly wage.

(2) The Employment Development Department shall determine the annualized state average weekly wage before January 1, 2010, and before January 1 of each calendar year thereafter.

(d) For purposes of this section, “annualized state average weekly wage” means the average weekly wage in the State of California, as determined by the United States Department of Labor in the most recent calendar quarter available at the time of determination, multiplied by 52.

SEC. 2. Section 977 of the Unemployment Insurance Code is amended to read:

977. (a) Except as provided in subdivision (c), if, as of the computation date, the employer’s net balance of reserve equals or exceeds that percentage of his or her average base payroll ~~which~~ that appears on any line in column 1 of the following table, but is less than that percentage of his or her average base payroll ~~which~~ that appears on the same line in column 2 of that table, his or her contribution rate shall be the figure appearing on that same line in the appropriate schedule, as defined in subdivision (b), which shall be a percentage of the wages specified in Section 930.

Line	Reserve Ratio		Contribution Rate					
	Column—Column		Schedules					
	1	2	AA	A	B	C	D	E

1	01	less than 20	5.4	5.4	5.4	5.4	5.4	5.4	5.4
2	02	20 to 18	5.2	5.3	5.4	5.4	5.4	5.4	5.4
3	03	18 to 16	5.1	5.2	5.4	5.4	5.4	5.4	5.4
4	04	16 to 14	5.0	5.1	5.3	5.4	5.4	5.4	5.4
5	05	14 to 12	4.9	5.0	5.3	5.4	5.4	5.4	5.4
6	06	12 to 11	4.8	4.9	5.2	5.4	5.4	5.4	5.4
7	07	11 to 10	4.7	4.8	5.1	5.3	5.4	5.4	5.4
8	08	10 to 09	4.6	4.7	5.1	5.3	5.4	5.4	5.4
9	09	09 to 08	4.5	4.6	4.9	5.2	5.4	5.4	5.4
10	10	08 to 07	4.4	4.5	4.8	5.1	5.3	5.4	5.4
11	11	07 to 06	4.3	4.4	4.7	5.0	5.3	5.4	5.4
12	12	06 to 05	4.2	4.3	4.6	4.9	5.2	5.4	5.4
13	13	05 to 04	4.1	4.2	4.5	4.8	5.1	5.3	5.4
14	14	04 to 03	4.0	4.1	4.4	4.7	5.0	5.3	5.4
15	15	03 to 02	3.9	4.0	4.3	4.6	4.9	5.2	5.4
16	16	02 to 01	3.8	3.9	4.2	4.5	4.8	5.1	5.4
17	17	01 to 00	3.7	3.8	4.1	4.4	4.7	5.0	5.4
18	18	00 to 01	3.4	3.6	3.9	4.2	4.5	4.8	5.1
19	19	01 to 02	3.2	3.4	3.7	4.0	4.3	4.6	4.9
20	20	02 to 03	3.0	3.2	3.5	3.8	4.1	4.4	4.7
21	21	03 to 04	2.8	3.0	3.3	3.6	3.9	4.2	4.5
22	22	04 to 05	2.6	2.8	3.1	3.4	3.7	4.0	4.3
23	23	05 to 06	2.4	2.6	2.9	3.2	3.5	3.8	4.1
24	24	06 to 07	2.2	2.4	2.7	3.0	3.3	3.6	3.9
25	25	07 to 08	2.0	2.2	2.5	2.8	3.1	3.4	3.7
26	26	08 to 09	1.8	2.0	2.3	2.6	2.9	3.2	3.5
27	27	09 to 10	1.6	1.8	2.1	2.4	2.7	3.0	3.3
28	28	10 to 11	1.4	1.6	1.9	2.2	2.5	2.8	3.1
29	29	11 to 12	1.2	1.4	1.7	2.0	2.3	2.6	2.9
30	30	12 to 13	1.0	1.2	1.5	1.8	2.1	2.4	2.7
31	31	13 to 14	0.8	1.0	1.3	1.6	1.9	2.2	2.5
32	32	14 to 15	0.7	0.9	1.1	1.4	1.7	2.0	2.3
33	33	15 to 16	0.6	0.8	1.0	1.2	1.5	1.8	2.1
34	34	16 to 17	0.5	0.7	0.9	1.1	1.3	1.6	1.9
35	35	17 to 18	0.4	0.6	0.8	1.0	1.2	1.4	1.7
36	36	18 to 19	0.3	0.5	0.7	0.9	1.1	1.3	1.5
37	37	19 to 20	0.2	0.4	0.6	0.8	1.0	1.2	1.4
38	38	20 or more	0.1	0.3	0.5	0.7	0.9	1.1	1.3
39									

Line	Reserve Ratio		Contribution Rate					
	Column 1	Column 2	Schedules					
			A	B	C	D	E	F
01	less than -20		7.5	7.5	7.5	7.5	7.5	7.5
02	-20 to -18		7.4	7.5	7.5	7.5	7.5	7.5
03	-18 to -16		7.3	7.5	7.5	7.5	7.5	7.5
04	-16 to -14		7.2	7.4	7.5	7.5	7.5	7.5
05	-14 to -12		7.1	7.3	7.5	7.5	7.5	7.5
06	-12 to -11		7.0	7.2	7.5	7.5	7.5	7.5
07	-11 to -10		6.9	7.1	7.4	7.5	7.5	7.5
08	-10 to -09		6.8	7.0	7.3	7.5	7.5	7.5
09	-09 to -08		6.7	6.9	7.2	7.5	7.5	7.5
10	-08 to -07		6.6	6.8	7.1	7.4	7.5	7.5
11	-07 to -06		6.5	6.7	7.0	7.3	7.5	7.5
12	-06 to -05		6.4	6.6	6.9	7.2	7.5	7.5
13	-05 to -04		6.3	6.5	6.8	7.1	7.4	7.5
14	-04 to -03		6.2	6.4	6.7	7.0	7.3	7.5
15	-03 to -02		6.1	6.3	6.6	6.9	7.2	7.5
16	-02 to -01		6.0	6.2	6.5	6.8	7.1	7.5
17	-01 to 00		5.9	6.1	6.4	6.7	7.0	7.5
18	00 to 01		5.6	5.8	6.1	6.4	6.7	7.1
19	01 to 02		5.3	5.5	5.8	6.1	6.4	6.7
20	02 to 03		5.0	5.2	5.5	5.8	6.1	6.4
21	03 to 04		4.7	4.9	5.2	5.5	5.8	6.1
22	04 to 05		4.4	4.6	4.9	5.2	5.5	5.8
23	05 to 06		4.1	4.3	4.6	4.9	5.2	5.5
24	06 to 07		3.8	4.0	4.3	4.6	4.9	5.2
25	07 to 08		3.5	3.7	4.0	4.3	4.6	4.9
26	08 to 09		3.2	3.4	3.7	4.0	4.3	4.6
27	09 to 10		2.9	3.1	3.4	3.7	4.0	4.3
28	10 to 11		2.6	2.8	3.1	3.4	3.7	4.0
29	11 to 12		2.3	2.5	2.8	3.1	3.4	3.7
30	12 to 13		2.0	2.2	2.5	2.8	3.1	3.4
31	13 to 14		1.7	1.9	2.2	2.5	2.8	3.1
32	14 to 15		1.4	1.6	1.9	2.2	2.5	2.8
33	15 to 16		1.1	1.3	1.6	1.9	2.2	2.5
34	16 to 17		0.8	1.1	1.4	1.6	1.9	2.2

1	35	17 to 18	0.6	0.9	1.2	1.4	1.7	1.9
2	36	18 to 19	0.5	0.7	1.0	1.2	1.5	1.7
3	37	19 to 20	0.4	0.6	0.8	1.0	1.3	1.5
4	38	20 or more	0.3	0.5	0.7	0.9	1.1	1.3

5

6 ~~(b) (1) Whenever the balance in the Unemployment Fund on~~
7 ~~September 30 of any calendar year is greater than 1.8 percent of~~
8 ~~the wages (as defined by Section 940) in employment subject to~~
9 ~~this part paid during the 12-month period ending upon the~~
10 ~~computation date, employers shall pay into the Unemployment~~
11 ~~Fund contributions for the succeeding calendar year upon all wages~~
12 ~~with respect to employment at the rates specified in Schedule AA.~~

13 ~~(2)~~

14 ~~(b) (1)~~ Whenever the balance in the Unemployment Fund on
15 September 30 of any calendar year is equal to or less than 1.8
16 percent and greater than 1.6 percent of the wages (as defined by
17 Section 940) in employment subject to this part paid during the
18 12-month period ending upon the computation date, employers
19 shall pay into the Unemployment Fund contributions for the
20 succeeding calendar year upon all wages with respect to
21 employment at the rates specified in Schedule A.

22 ~~(3)~~

23 (2) Whenever the balance in the Unemployment Fund on
24 September 30 of any calendar year is equal to or less than 1.6
25 percent and greater than 1.4 percent of the wages (as defined by
26 Section 940) in employment subject to this part paid during the
27 12-month period ending upon the computation date, employers
28 shall pay into the Unemployment Fund contributions for the
29 succeeding calendar year upon all wages with respect to
30 employment at the rates specified in Schedule B.

31 ~~(4)~~

32 (3) Whenever the balance in the Unemployment Fund on
33 September 30 of any calendar year is equal to or less than 1.4
34 percent and greater than 1.2 percent of the wages (as defined by
35 Section 940) in employment subject to this part paid during the
36 12-month period ending upon the computation date, employers
37 shall pay into the Unemployment Fund contributions for the
38 succeeding calendar year upon all wages with respect to
39 employment at the rates specified in Schedule C.

40 ~~(5)~~

(4) Whenever the balance in the Unemployment Fund on September 30 of any calendar year is equal to or less than 1.2 percent and greater than 1.0 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule D.

~~(6)~~

(5) Whenever the balance in the Unemployment Fund on September 30 of any calendar year is equal to or less than 1.0 percent and greater than or equal to 0.8 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule E.

~~(7)~~

(6) Whenever the balance in the Unemployment Fund on September 30 of any calendar year is less than 0.8 percent and greater than or equal to 0.6 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the rates specified in Schedule F.

(c) For each rating period beginning on or after January 1, 2005, in which an employer obtains or attempts to obtain a more favorable rate of contributions under this section due to deliberate ignorance, reckless disregard, fraud, intent to evade, misrepresentation, or willful nondisclosure, the director shall assign the maximum contribution rate plus 2 percent for each applicable rating period, the current rating period, and the subsequent rating period.

SEC. 3. Section 982 of the Unemployment Insurance Code is amended to read:

982. (a) Except as provided in subdivision (b), no employer shall be eligible for a contribution rate of more or less than ~~3.4~~ 4.5 percent for any rating period unless his or her reserve account has been subject to benefit charges during the period of 12 complete

1 consecutive calendar quarters ending on the computation date for
2 that rating period and he or she is qualified under Sections 977
3 and 977.5.

4 (b) No new employer shall be eligible for a contribution rate of
5 more or less than ~~3.4~~ 4.5 percent unless his or her reserve account
6 has been subject to benefit charges during the period of 12
7 complete consecutive calendar months ending on the computation
8 date and the new employer is qualified under Sections 977 and
9 977.5.

10 (c) For the purposes of this section “new employer” means any
11 of the following:

12 (1) An employer who first qualifies as an employer after the
13 1969 calendar year, and whose account is continuously subject to
14 benefit charges from the date of first chargeability, except that a
15 successor employer under Section 1051 is not a new employer if
16 the successor applies for or obtains the transfer of the reserve
17 account or part thereof of a predecessor who is not a new employer.

18 (2) An employer whose entire reserve account has been
19 transferred to a successor under Article 5 (commencing with
20 Section 1051) of Chapter 4 of this part.

21 (3) An employer whose reserve account has been canceled
22 pursuant to Section 1029.

23 (d) Section 905 applies to a new employer, except that for the
24 purposes of this section “average base payroll” means:

25 (1) The payroll in the calendar year immediately preceding the
26 computation date for a new employer with a payroll only in that
27 calendar year.

28 (2) The quotient obtained by dividing by two the total amount
29 of taxable wages paid by a new employer during the most recent
30 period of two consecutive calendar years immediately preceding
31 the computation date, for a new employer with a payroll only in
32 each of, or only in the first of, the two consecutive calendar years.

33 (e) The contribution rate of an employer, for any period prior
34 to January 1, 1988, shall not be changed, other than by ~~the~~
35 ~~provisions of~~ Sections 977 and 977.5, when the director makes a
36 determination, pursuant to Section 135.1 or 135.2, because of
37 arrangements entered into or business activities conducted between
38 January 1, 1984, and January 1, 1986.

39 (f) This section does not apply to an employer assigned the
40 maximum rate pursuant to subdivision (c) of Section 977.

1 SEC. 4. Section 1252 of the Unemployment Insurance Code
2 is amended to read:

3 1252. (a) An individual is “unemployed” in any week in which
4 he or she meets any of the following conditions:

5 (1) Any week during which he or she performs no services and
6 with respect to which no wages are payable to him or her.

7 (2) Any week of less than full-time work, if the wages payable
8 to him or her with respect to the week, when reduced by
9 ~~twenty-five dollars (\$25)~~ *two hundred dollars (\$200)* or 25 percent
10 of the wages payable, whichever is greater, do not equal or exceed
11 his or her weekly benefit amount.

12 (3) Any week for which, except for the requirements of
13 subdivision (d) of Section 1253, he or she would be eligible for
14 benefits under Section 1253.5.

15 (4) Any week during which he or she performs full-time work
16 for five days as a juror, or as a witness under subpoena.

17 (b) Authorized regulations shall be prescribed making such
18 distinctions as may be necessary in the procedures applicable to
19 unemployed individuals as to total unemployment, part-total
20 employment, partial unemployment of individuals attached to their
21 regular jobs, and other forms of short-time work.

22 (c) For the purpose of this section only “wages” includes any
23 and all compensation for personal services whether performed as
24 an employee or as an independent contractor or as a juror or as a
25 witness, but does not include any payment received by a member
26 of the National Guard or reserve component of the armed forces
27 for inactive duty training, annual training, or emergency state active
28 duty.

29 SEC. 5. Section 1279 of the Unemployment Insurance Code
30 is amended to read:

31 1279. (a) Each individual eligible under this chapter who is
32 unemployed in any week shall be paid with respect to that week
33 an unemployment compensation benefit in an amount equal to his
34 or her weekly benefit amount less the smaller of the following:

35 (1) The amount of wages in excess of ~~twenty-five dollars (\$25)~~
36 *two hundred dollars (\$200)* payable to him or her for services
37 rendered during that week.

38 (2) The amount of wages in excess of 25 percent of the amount
39 of wages payable to him or her for services rendered during that
40 week.

1 (b) The benefit payment, if not a multiple of one dollar (\$1),
2 shall be computed to the next higher multiple of one dollar (\$1).

3 (c) For the purpose of this section only “wages” includes any
4 and all compensation for personal services whether performed as
5 an employee or as an independent contractor or as a juror or as a
6 witness, but does not include any payments, regardless of their
7 designation, made by a city of this state to an elected official
8 thereof as an incident to public office, nor any payment received
9 by a member of the National Guard or reserve component of the
10 armed forces for inactive duty training, annual training, or
11 emergency state active duty.

12 SEC. 6. This act is an urgency statute necessary for the
13 immediate preservation of the public peace, health, or safety within
14 the meaning of Article IV of the Constitution and shall go into
15 immediate effect. The facts constituting the necessity are:

16 In order to address the current funding crisis threatening the
17 Unemployment Fund at the earliest possible time, it is necessary
18 that this act take effect immediately.